

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

LARRY ELLIOTT	§	
v.	§	CIVIL ACTION NO. 5:04cv38
JASON SANDLEY	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Larry Elliott, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Elliott complained of an incident which occurred in the Titus County Jail on February 4, 2004, when Officer Sandley gave him the wrong medication, which belonged to an inmate named Danny Elliott. The Magistrate Judge ordered the Defendant to answer the lawsuit, which was done, and the Defendant filed a motion for summary judgment. Elliott requested additional time in which to respond to this motion, which was granted, but no response was ever filed.

After review of the pleadings and the competent summary judgment evidence, the Magistrate Judge issued a Report on May 23, 2005, recommending that the Defendant's motion for summary judgment be granted and that the lawsuit be dismissed. On June 9, 2005, Elliott filed a motion for extension of time in which to object; this motion asked for time only until June 29, 2005, in which to file his objections. To date, no objections have been filed, although Elliott has had more than ample time in which to do so; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error,

from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge and has determined that this Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Defendant's motion for summary judgment is GRANTED and that the above-styled civil action is hereby DISMISSED with prejudice. It is further

ORDERED that any and all motions which may be pending in this cause are hereby DENIED.

SIGNED this 22nd day of August, 2005.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE